

AMENDED IN SENATE MAY 31, 2011
AMENDED IN SENATE APRIL 26, 2011
AMENDED IN SENATE APRIL 25, 2011
AMENDED IN SENATE APRIL 14, 2011

SENATE BILL

No. 734

Introduced by Senator Price
(Principal coauthor: Assembly Member Galgiani)
(*Coauthor: Senator Alquist*)

February 18, 2011

An act to *amend Section 185033 of, and to add Section 185034.1 of* to, the Public Utilities Code, relating to small business.

LEGISLATIVE COUNSEL'S DIGEST

SB 734, as amended, Price. High-Speed Rail Authority: small business program: bidding preferences.

Existing law provides for various programs to encourage the participation of small businesses, as certified by the Department of General Services, in state agency contracts, and sets forth the duties of the Director of General Services and the directors of other state agencies in this regard.

Existing law, the California High-Speed Rail Act, creates the High-Speed Rail Authority to develop and implement a high-speed rail system in the state, with specified powers and duties. Existing law, pursuant to the Safe, Reliable High-Speed Passenger Train Bond Act for the 21st Century, approved by the voters as Proposition 1A at the November 4, 2008, general election, provides for the issuance of \$9.95 billion in general obligation bonds for high-speed rail and related purposes.

This bill would require the authority, with the assistance of the Department of General Services, to prepare a small business, microbusiness, and disabled veteran business outreach and retention plan by July 31, 2012, in order to ensure that the percentage of contracts awarded meets the small business participation goals established by Executive Order S-02-06.

~~The bill would require the authority to form a small business advisory committee of at least 9 members at the time the authority initiates the preparation of the plan. The~~

This bill would require the authority to hold a hearing on the draft plan at least one month before the board meeting at which the authority intends to act on the proposed plan. The bill would require that all bidders' conferences convened by the authority include a presentation of the plan and the state's small business participation goals. The bill would require an additional price preference or score of 2.5% of the bid amount to be granted to qualified state-certified microbusinesses.

The bill would state that the authority shall be subject to the provisions of the Small Business Procurement and Contract Act.

Existing law requires the authority to prepare, publish, adopt, and submit to the Legislature a business plan containing specified elements beginning January 1, 2012, and every 2 years thereafter.

This bill would require the authority to include in that business plan or in an addendum a strategy for ensuring the participation of California-certified small businesses in contracts awarded by the authority with state or federal funds during all phases of the project.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) In order to keep faith with the promise to promote California
- 4 jobs following the passage of the Safe, Reliable, High-Speed
- 5 Passenger Train Bond Act for the 21st Century, the state should
- 6 aid, counsel, assist, and protect, to the maximum extent possible,
- 7 the interests of small businesses, including microbusinesses.
- 8 (b) California's microbusinesses are known to bring real
- 9 diversity to local economies and the state and deserve a fair share
- 10 of contracts awarded for the high-speed rail project. Although

1 microbusinesses comprise over 80 percent of California's certified
2 small businesses, and while it was the state's intent to afford
3 microbusinesses the same opportunities as other small businesses
4 in competing for state contracts, many microbusiness owners are
5 disadvantaged when competing against their larger small business
6 counterparts. Data compiled by the Department of General Services
7 shows that of the \$2.4 billion of contract dollars issued by state
8 agencies to small businesses and microbusinesses in fiscal year
9 2008–09, microbusinesses were awarded only 37 percent, or \$866
10 million worth of state contracting. Moreover, of the 103,371
11 contracts issued during the same timeframe, microbusinesses
12 received only 42,140, or 41 percent of the contracts issued by the
13 state.

14 (c) It is beneficial to the state to promote and facilitate the fullest
15 possible participation by California workers to train for new jobs
16 and careers in today's global economy.

17 (d) Therefore, it is essential to ensure that a fair proportion of
18 the total purchases and contracts or subcontracts for property and
19 services for California's high-speed rail system be placed with
20 these microbusinesses.

21 *SEC. 2. Section 185033 of the Public Utilities Code is amended*
22 *to read:*

23 185033. (a) The authority shall prepare, publish, adopt, and
24 submit to the Legislature, not later than January 1, 2012, and every
25 two years thereafter, a business plan. At least 60 days prior to the
26 publication of the plan, the authority shall publish a draft business
27 plan for public review and comment. The draft plan shall also be
28 submitted to the Senate Committee on Transportation and Housing,
29 the Assembly Committee on Transportation, the Senate Committee
30 on Budget and Fiscal Review, and the Assembly Committee on
31 Budget. The business plan shall identify all of the following: the
32 type of service the authority anticipates it will develop, such as
33 local, express, commuter, regional, or interregional; a description
34 of the primary benefits the system will provide; a forecast of the
35 anticipated patronage, operating and maintenance costs, and capital
36 costs for the system; an estimate and description of the total
37 anticipated federal, state, local, and other funds the authority
38 intends to access to fund the construction and operation of the
39 system; and the proposed chronology for the construction of the
40 eligible corridors of the statewide high-speed train system. The

1 business plan shall also include a discussion of all reasonably
2 foreseeable risks the project may encounter, including, but not
3 limited to, risks associated with the project's finances, patronage,
4 right-of-way acquisition, environmental clearances, construction,
5 equipment, and technology, and other risks associated with the
6 project's development. The plan shall describe the authority's
7 strategies, processes, or other actions it intends to utilize to manage
8 those risks.

9 (b) (1) In addition to the requirements of subdivision (a), the
10 business plan shall include, but need not be limited to, all of the
11 following elements:

12 (A) Using the most recent patronage forecast for the system,
13 develop a forecast of the expected patronage and service levels
14 for the Phase 1 corridor as identified in paragraph (2) of subdivision
15 (b) of Section 2704.04 of the Streets and Highways Code and by
16 each segment or combination of segments for which a project level
17 environmental analysis is being prepared for Phase 1. The forecast
18 shall assume a high, medium, and low level of patronage and a
19 realistic operating planning scenario for each level of service.
20 Alternative fare structures shall be considered when determining
21 the level of patronage.

22 (B) Based on the patronage forecast in subparagraph (A),
23 develop alternative financial pro formas for the different levels of
24 service, and identify the operating break-even points for each
25 alternative. Each pro forma shall assume the terms of subparagraph
26 (J) of paragraph (2) of subdivision (c) of Section 2704.08 of the
27 Streets and Highways Code.

28 (C) Identify the expected schedule for completing environmental
29 review, and initiating and completing construction for each segment
30 of Phase 1.

31 (D) Identify the source of federal, state, and local funds available
32 for the project that will augment funds from the bond act and the
33 level of confidence for obtaining each type of funding.

34 (E) Identify written agreements with public or private entities
35 to fund components of the high-speed rail system, including
36 stations and terminals, any impediments to the completion of the
37 system, such as the inability to gain access to existing railroad
38 rights-of-way.

39 (F) Identify alternative public-private development strategies
40 for the implementation of Phase 1.

(2) To the extent feasible, the business plan should draw upon information and material developed according to other requirements, including, but not limited to, the preappropriation review process and the preexpenditure review process in the Safe, Reliable High-Speed Passenger Train Bond Act for the 21st Century pursuant to Section 2704.08 of the Streets and Highways Code. The authority shall hold at least one public hearing on the business plan and shall adopt the plan at a regularly scheduled meeting. When adopting the plan, the authority shall take into consideration comments from the public hearing and written comments that it receives in that regard, and any hearings that the Legislature may hold prior to adoption of the plan.

(c) In the business plan to be submitted on January 1, 2012, or as an addendum to that plan to be submitted on March 1, 2012, the authority shall include a strategy for ensuring the participation of California-certified small businesses in contracts awarded by the authority with state or federal funds during all phases of the project.

~~SEC. 2.~~

SEC. 3. Section 185034.1 is added to the Public Utilities Code, to read:

185034.1. (a) The High-Speed Rail Authority, with the assistance of the Department of General Services, shall prepare a small business, microbusiness, and disabled veteran business enterprise outreach and retention plan in order to ensure that the percentage of contracts awarded for architectural, engineering, manufacturing, and construction activities meets the small business participation goal established by Executive Order S-02-06. In developing the plan, the authority shall consider examples of existing small business programs used by other public agencies in California.

(b) When preparing the plan, the authority shall be guided by the provisions of the Small Business Procurement and Contract Act (Chapter 6.5 (commencing with Section 14835) of Part 5.5 of Division 3 of Title 2 of the Government Code).

~~(c) At the time the authority initiates the preparation of the plan, it shall form a small business advisory committee of at least nine members, the majority of whom shall be selected from the small business categories identified in subdivision (h). The initiation of the planning process shall be by action of the authority.~~

1 ~~(d)~~

2 (c) The plan required by this section shall be adopted by July
3 31, 2012. Prior to the adoption of the plan, the authority shall hold
4 a hearing on the draft plan at a monthly board meeting held at least
5 one month before the board meeting at which the authority intends
6 to act on the proposed plan. Both the draft plan and the adopted
7 plan shall be posted on the homepage of the authority's Internet
8 Web site. The authority shall include in all its procurement
9 documents a summary of the plan and a link to the entire plan on
10 its Internet Web site and shall implement the outreach strategy.

11 ~~(e)~~

12 (d) All bidders' conferences convened by the authority shall
13 include a presentation of the plan and the state's small business
14 participation goals. The authority shall request a representative of
15 the Department of General Services to attend all bidders'
16 conferences and to answer all questions regarding the Small
17 Business Procurement and Contract Act.

18 ~~(f)~~

19 (e) The authority shall be subject to the provisions of the Small
20 Business Procurement and Contract Act (Chapter 6.5 (commencing
21 with Section 14835) of Part 5.5 of Division 3 of Title 2 of the
22 Government Code). All contracting preferences granted by the
23 authority shall be consistent with Section 14838 of the Government
24 Code.

25 ~~(g)~~

26 f) An additional price preference or score of 2.5 percent of the
27 bid amount shall be granted to qualified state-certified
28 microbusinesses.

29 ~~(h)~~

30 (g) As used in this section, the following terms have the
31 following meanings:

32 (1) "Disabled veteran business enterprise" means an enterprise
33 that has been certified as meeting the qualifications established by
34 subdivision (g) of Section 999 of the Military and Veterans Code.

35 (2) "Microbusiness" means a microbusiness as defined in
36 paragraph (2) of subdivision (d) of Section 14837 of the
37 Government Code.

1 (3) “Small business” means a small business as defined in
2 paragraph (1) of subdivision (d) of Section 14837 of the
3 Government Code.

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